

“(2) Deduction for Depreciation and Depletion. In case of property held in trust, the deduction for depreciation and depletion shall be apportioned between the income beneficiaries and the trustee in accordance with the instrument creating the trust, or in the absence of such provisions, on the basis of the trust income allocable to each. In the case of an estate, the allowable depreciation deduction shall be apportioned between the estate and the heirs, legatees, and devisees on the basis of the portion of the income of the estate allocable to each.

“(3) Double Deduction Not Allowed. Amounts allowable under G. S. 105-9 as a deduction in computing the taxable estate of a decedent for inheritance tax purposes shall not be allowed as a deduction in computing the taxable income of the estate, unless there is filed, within the time and in the manner and form prescribed by the Commissioner of Revenue, a statement that the amounts have not been allowed as deductions under G. S. 105-9 and a waiver of the right to have such amounts allowed as deductions under G. S. 105-9. This subdivision shall not apply with respect to deductions allowed under G. S. 105-142.1(e) (relating to income in respect of decedents).

“(4) Amounts Paid or Permanently Set Aside for Charity.

a. Deduction. In determining the net income of an estate or trust for purposes of this Section (other than a trust described in subdivision (d)(5) of this Section), there shall be allowed as a deduction in computing the taxable income of the estate or trust (in lieu of the deductions allowed by G. S. 105-147(15) and (16)) any amount of the gross income, without limitation, which pursuant to the terms of the governing instrument is, during the taxable year, paid or permanently set aside for a religious, charitable, scientific, literary, or educational purpose or for the prevention of cruelty to children or animals, or for a distributee specified in G. S. 105-147(15) or G. S. 105-147(16).

b. Limitation on Deduction.

1. Trade or Business Income. In computing the deduction allowable under paragraph a. of this subdivision to a trust, no amount otherwise allowable under paragraph a. shall be allowable as a deduction with respect to income of the taxable year which is allocable to its unrelated business income for such year. For purposes of the preceding sentence, the term ‘unrelated business income’ means an amount equal to the amount which, if such trust were exempt from tax under subdivision (f)(1) of this Section, would be computed as its unrelated business taxable income under subdivision (f)(2) of this Section, (relating to income derived from certain business activities).

2. Prohibited Transactions. The amount otherwise allowable under paragraph a. of this subdivision as a deduction shall not be allowable if the trust has engaged in a prohibited transaction. For purposes of this subdivision, the term ‘prohibited transaction’ means any transaction after the effective date of this subdivision in which any trust while holding income or corpus which has been permanently set aside or is to be used exclusively for charitable or other purposes described in paragraph a. of this subdivision: